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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|------------------------|---------------------|------------------|
| 09/823,089  | 03/29/2001  | Dennis Sunga Fernandez | 84022.0138          | 9469             |
| 20222 7590 12/31/2008<br>SNELL & WILMER L.L.P. (Main)<br>400 EAST VAN BUREN<br>ONE ARIZONA CENTER<br>PHOENIX, AZ 85004-2202 |             |                        |                     |                  |
| EXAMINER<br>VO, TUNG T  |             |                        |                     |                  |
| ART UNIT<br>2621  |             | PAPER NUMBER           |                     |                  |
| MAIL DATE<br>12/31/2008   |             | DELIVERY MODE<br>PAPER |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/823,089

**Applicant(s)**

FERNANDEZ ET AL.

**Examiner**

Tung Vo

**Art Unit**

2621

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 01 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/01/2008.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 67-90 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 67-90 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/88)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

1. Newly submitted claims 67-90 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 67-90, drawn to a controller having recognition software to recognize a first and second objects detected by first and second mobile units, is different from the originally presented claims 37-66, drawn to a cellphone for communicating with a network controller via a wireless network. See comparison below.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 67-90 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

| <b>Original presented claim 37</b>  | <b>Newly submitted claim 67</b>  |
|---|--|
| Cellphone for communicating with a networked controller comprising:<br><br><b>a wireless communicator</b> for communicating remotely with a networked controller via a network;<br><br><b>a locator</b> for providing a cellphone location to the networked controller via the wireless communicator; a sensor for providing an image, audio, or video signal of a cellphone user for transmission to the networked controller via the wireless communicator; and<br><br><b>a processor</b> for accessing a communication module for enabling voice or video over Internet-Protocol streaming via the wireless communicator, the communication module | A controller comprising:<br><br><b>a communicator</b> configured to receive, via a network, first visual data from a first mobile unit and second visual data from a second mobile unit, wherein the communicator is further configured to transmit, via the network, the first visual data to the second mobile unit and the second visual data to the first mobile unit, to facilitate visual communication between the first mobile unit and the second mobile unit; and<br><br><b>recognition software</b> configured to visually recognize a first object associated with the first visual data and a second object associated with the second visual data, wherein the recognition |

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|---|---|
| comprising a user-customizable or reconfigurable software program, firmware or circuit accessible locally in the cellphone or remotely via the network, the communication module being partitionable or uninstallable as functional component, the voice or video stream being wirelessly communicated by the wireless communicator effectively via a data channel to a wireless Internet service provider; | software is further configured to verify that the first visual data was received from the first object and to verify that the second visual data was received from the second object. |
| wherein the communication module is provided in layered or hierarchical arrangement, such that a first-level functionality is provided by a database and an object movement module, and a next-level functionality is provided by the communication module and a security module.   |   |

2. Note the original presented claims 37-66 has been canceled.
3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung Vo whose telephone number is 571-272-7340. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tung Vo/  
Primary Examiner, Art Unit 2621